

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

TRICIA TAMKIN,  
Plaintiff,  
vs.  
ZOHIO CORPORATION,  
Defendant.

CASE NO. 19-cv-07465-YGR

**ORDER GRANTING MOTION TO REMAND;  
DISMISSING STATE COMMON LAW  
COPYRIGHT CLAIM**

Re: Dkt. No. 7

On November 21, 2019, plaintiff Tricia Tamkin filed a motion to remand this case back to the California Superior Court, County of Alameda. (Dkt. No. 7.) Defendant Zoho Corporation filed an opposition thereto, after which plaintiff filed a reply brief. (Dkt. Nos. 17, 21.)

In addition, on November 25, 2019, defendant filed a motion to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. No. 9.) Plaintiff filed an opposition thereto, after which defendant filed a reply brief. (Dkt. Nos. 18, 23.)

Having carefully considered the briefing and arguments submitted in this matter, and for the reasons set forth on the record on January 7, 2020, the Court orders as follows:

- (1) Plaintiff's common law copyright cause of action is preempted by the Copyright Act, 17 U.S.C. section 301(a). *Downing v. Abercrombie & Fitch*, 265 F.3d 994, 1003 (9th Cir. 2001); *Kodadek v. MTV Networks, Inc.*, 152 F.3d 1209, 1212–13 (9th Cir. 1998).

Thus, this state law claim is **DISMISSED WITH PREJUDICE**.<sup>1</sup>

- (2) The Court declines to exercise supplemental jurisdiction over plaintiff's remaining claims. *Acri v. Varian Associates* 114 F.3d 999, 1000 (9th Cir. 1997). The Court

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<sup>1</sup> Insofar as the preempted claim may be recharacterized as a federal claim, *Hansen v. Grp. Health Coop.*, 902 F.3d 1051, 1058 (9th Cir. 2018), plaintiff has conceded that she cannot maintain such a claim at this juncture given her failure to register the copyright at issue. *Reed Elsevier, Inc. v. Muchnick*, 559 U.S. 154, 157, 130 S.Ct. 1237, 176 L.Ed.2d 18 (2010).


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therefore lacks subject matter jurisdiction to hear this case. Accordingly, the Court  
**GRANTS** plaintiff's motion to remand this action to the California Superior Court,  
County of Alameda. The Clerk of Court is directed to remand the case and close the  
file.

This Order terminates Docket Number 7.

**IT IS SO ORDERED.**

Dated: January 9, 2020

  
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**YVONNE GONZALEZ ROGERS**  
**UNITED STATES DISTRICT COURT JUDGE**